

August 29, 2001

*VIA OVERNIGHT MAIL*

Mr. Allan Bausback  
Director, Office of Communications  
State of New York Department of Public Service  
Three Empire State Plaza  
Albany, NY 12223-1350

Dear Mr. Bausback:

I am writing in response to your letter dated August 16, 2001 addressed to Julia Becker at Level 3 Communications, LLC ("Level 3") concerning Level 3's ability to participate in number pooling trials in New York. Level 3 intends to begin participating in number pooling efforts in New York in the near future and we are working aggressively toward that end presently.

As your letter points out, Local Number Portability ("LNP") and number pooling are inextricably tied. The fact is, LNP presents unique technical issues to Level 3 as an Internet Protocol ("IP") based provider. While Level 3 is working diligently to develop and implement full LNP-capability, at present, it is not technically feasible.

LNP is not technically feasible for Level 3 because of Level 3's unprecedented approach to offering telecommunications services. Level 3 is building an international network based entirely on Internet Protocol ("IP") packet switching. Standard technological solutions designed for traditional circuit-switching often do not work on Level 3's network. The technology surrounding LNP is one example.

Level 3's network switches and routes its IP packets via equipment called softswitches. There are no traditional circuit switches in Level 3's network. A softswitch provides Level 3 with the capability to offer both data and voice services on an IP packet platform, and it is the softswitch and other IP routing equipment that must account for the technological requirements of LNP. Level 3 is building its network and softswitch architecture from the ground up while the industry standard for LNP is built around traditional circuit switching technology. The LNP software available for circuit switching is not compatible with Level 3's proprietary softswitch.

While Level 3 is aware of the NYPSC's and the FCC's rules and orders regarding the deployment of LNP and participation in number pooling, the Communications Act of 1934, as amended (the "Act"), makes clear that number portability need only be deployed

“to the extent technically feasible.”<sup>1</sup> Because LNP is not technically feasible for Level 3, it should not be subject to number pooling requirements according to the Act and the FCC’s rules and orders. (47 U.S.C. § 251(b)(3); 47 C.F.R. § 52.23(b)(1), CC Docket No. 99-200, ¶ 125-6)

Nonetheless, Level 3 has engaged in discussions with the FCC about its lack of full LNP-capability and its perceived inability to participate in number pooling trials. Because the FCC has plenary authority over numbering resources,<sup>2</sup> Level 3 has worked with the FCC and has proposed an interim LNP solution that could allow for Level 3’s participation in limited number pooling trials. In fact, Level 3 has recently established the necessary database interface with NPAC and anticipates marking itself as LNP capable in the LERG with respect to its codes in New York in the near future. Level 3 has also recently discussed its interim pooling participation plans with Neustar as the Pooling Administrator and is awaiting word from them regarding any concerns they may or may not have. However, until such time as Level 3 is fully authorized and prepared to mark itself as LNP-capable and begin participating in pooling trials for the first time, Level 3 is unable to donate codes to New York’s trials.

Attached are copies of the Ex Parte letters that have been filed as a result of Level 3’s LNP-related discussions with the FCC. Please feel free to contact me if you would like to discuss this matter in greater detail. I would be happy to schedule a trip to Albany if you feel that would be beneficial.

Sincerely,

Greg L. Rogers  
Attorney  
Level 3 Communications, LLC  
(720) 888-2512

Attachments

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<sup>1</sup> Section 251(b)(2) of the Act.

<sup>2</sup> Section 251(e)(1) of the Act.